

REMARKS

Favorable reconsideration of this application, in view of the present amendments and in light of the following discussion, is respectfully requested.

Claims 1-3, 6-8, and 11-16 are pending and Claims 1, 2, 6, 7 and 11 are amended. No new is introduced.

In the outstanding Office Action, Claims 2 and 7 were objected as containing informalities; Claim 11 was objected to as being a duplicate of Claim 1; and Claims 1-3, 6-8 and 11-16 were rejected under 35 U.S.C. §103(a) as being unpatentable over Bjorn (U.S. 6,035,398) in view of Iihama et al. (U.S. Publication 2002/0014530, hereinafter “Iihama”) in further view of Rowe et al. (U.S. Publication 2002/009213, hereinafter Rowe).

With respect to the objections to Claims 2 and 7, Claims 2 and 7 are amended to adopt the Examiner’s suggestions. Accordingly, it is respectfully requested that the objection to Claims 2 and 7 be withdrawn.

With respect to the rejection of Claim 11, Applicants respectfully traverse the objection. The outstanding Office Action asserts that Claim 11 is objected to for being a substantial duplicate of Claim 1 due to the terms “configured to” and “means for” being merely verbal constructs.¹ However, the “means for” language recited in Claim 11 is no mere verbal construct, but instead invokes 35 U.S.C. §112, sixth paragraph, which states:

An element in a claim for a combination may be expressed as a means or step for performing a specific function ... and such claim shall be construed to cover *the corresponding structure, material, or acts described in the specification and equivalents thereof* (emphasis added.)

¹ Outstanding Office Action at page 3, lines 14-21.

Further, MPEP 2181 provides,

When making a determination of patentability under 35 U.S.C. 102 of 103, past practice was to interpret a "means or step plus function" limitation by giving it the "broadest reasonable interpretation." Under the PTO's long-standing practice this meant interpreting such a limitation as reading on any prior art means or step which performed the function specified in the claim *without regard for whether the prior art means or step was equivalent to the corresponding structure, material or acts described in the specification*. However, in *Donaldson*, the Federal Circuit stated:

Per our holding, *the "broadest reasonable interpretation" that an examiner may give means-plus-function language is that statutorily mandated in paragraph six. Accordingly, the PTO may not disregard the structure disclosed in the specification corresponding to such language when rendering a patentability determination.*²

Therefore, Claims 1 and 11 are claims drafted with different language requiring different examination analysis based on the statutory provisions invoked by each.

Accordingly, it is respectfully requested that the objection to Claim 11 be withdrawn.

In reply to the rejection of Claims 1-3, 6-8 and 11-16 as being unpatentable over Bjorn in view of Iihama in further view of Rowe, amended Claim 1 recites, *inter alia*, an encryption device that includes:

an imaging unit including a movable diffusion plate configured to perform imaging by emitting light on a target and to output analog first and second signals,

the first signal including image data of an inside portion of the unique confidential target,

the second signal including image data of a solid imaging element located inside the imaging unit to create variation patterns unique to the imaging unit, and

² MPEP 2181: Identifying a 35 U.S.C. 112, Sixth Paragraph Limitation.

the diffusion plate being moved into and out of a path of light emitted based on the signal being output by the imaging unit (Emphasis added.)

Turning to the primary reference, Bjorn describes generating a secure unique cryptographic key using biometric data.³ More specifically, Bjorn describes a feature extraction unit (240) for receiving a fingerprint from a fingerprint sensor (195) and extracting relevant features of the fingerprint.⁴ A hashing unit (280) then uses the relevant features to create a cryptographic key.⁵ The outstanding Office Action acknowledges that Bjorn does not teach the outputting of variation patterns signal that are specific to the imaging unit as recited in Claim 1 but identifies Iihama as curing this deficiency in Bjorn.

Iihama describes an image reading apparatus with the ability to appropriately release static electricity charged in a target object to be detected to prevent a malfunction of the reading.⁶ More specifically, Iihama describes that the image reading apparatus for reading a fingerprint includes a backlight system (30) having a fluorescent tube, an optical guide plate and a diffusion plate.⁷ Iihama further describes that irradiating light (La) emitted from the backlight system (30) irradiates a finger (FN) disposed on a target contact surface (28).⁸

Iihama, however, does not describe that the diffusion plate of the backlight system (30) moves into and out of the path of irradiating light (La) based on the signal being output by the image reading apparatus. Instead, Iihama merely describes that the diffusion plate is

³ Bjorn at column 1, lines 5-7 and lines 33-37.

⁴ Id.

⁵ Id. at column 3, lines 43-60.

⁶ Iihama at page 1, paragraphs 3-8.

⁷ Id. at page 5, paragraphs 74-75; see Figure 14.

⁸ Id.

included in the backlight system (30) of the image reading apparatus.⁹ Nowhere does Iihama describe that the diffusion plate can be moved, much less that the diffusion plate is moved based on the signal being generated by the image reading apparatus. Conversely, amended Claim 1 recites *that the diffusion plate moves into and out of a path of light emitted based on the signal being output by the imaging unit.*

Further, as first recognized by the present inventors, the moving of the diffusion plate into and out of the path of emitted light based on the signal being output by the imaging unit, as recited in amended Claim 1, enables a highly secure identification process by providing identification information unique to a body and encryption key information obtained from a solid imaging element. As such, Iihama fails to describe the diffusion plate of amended Claim 1 and Rowe fails to cure this deficiency in Iihama. Thus, no combination of Bjorn, Iihama and Rowe describes every feature recited in amended Claim 1. Accordingly, amended claim 1, together with any claims depending therefrom, is believed to be in condition for allowance.

Moreover, Claims 6 and 11 recite features substantially similar to those recited in amended Claim 1, and are thus believed to be in condition for allowance for similar reasons. Accordingly, it is respectfully requested that the rejection of Claims 1-3, 6-8 and 11-16 under 35 U.S.C. §103(a) be withdrawn.

For the reasons discussed above, no further issues are believed to be outstanding in the present application and the present application is believed to be in condition for formal

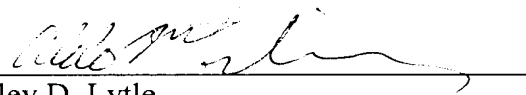
⁹ Id.

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allowance. Therefore, a Notice of Allowance for Claims 1-3, 6-8, and 11-16 is earnestly solicited.

Respectfully submitted,

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